

**United States Environmental Protection Agency
Criminal Investigation Division
Investigative Activity Report**

Case Number

0506-0026

Case Title:

Ferguson Enterprises Inc.

Reporting Office:

Detroit, MI, Resident Office

Subject of Report:

Interview of (b) (7)(C) DWSD.

Activity Date:

December 1, 2010

Reporting Official and Date:

Carol A. (b) (7)(C) RAC

23-DEC-2010, Signed by: (b) (7)(C) RAC

Approving Official and Date:

(b) (7)(C) SAC

28-DEC-2010, Approved by: (b) (7)(C), ASAC

SYNOPSIS

12/01/2010 - U.S. EPA CID Special Agent (SA) (b) (7)(C) interviewed (b) (7)(C) Detroit Water & Sewerage Department (DWSD), Contracts and Grants. (b) (7)(C) has been interviewed by SA (b) (7)(C) several times in this investigation.

DETAILS

On December 1, 2010, U.S. EPA CID Special Agent (SA) (b) (7)(C) interviewed (b) (7)(C) Detroit Water & Sewerage Department (DWSD), Contracts and Grants. (b) (7)(C) has been interviewed by SA (b) (7)(C) several times in this investigation. (b) (7)(C) provided the following information:

(b) (7)(C) was shown handwritten notes which SA (b) (7)(C) located in (b) CM 2012 file. (b) (7)(C) identified the notes as being his own which (b) took during a meeting with DWSD Director (b) (7)(C) Detroit Law Department Attorney (b) (7)(C) outside counsel (b) (7)(C) and (b) (7)(C) of DLZ, as written on the document. (b) (7)(C) recalled that the topic of the meeting was how to structure the CM 2012 contract. SA (b) (7)(C) pointed out that (b) (7)(C) wrote that CS 1361 was to be cancelled due to problems with Lakeshore. (b) (7)(C) explained that while (b) doesn't distinctly recall who made the comment, someone did as (b) wrote it down. (b) (7)(C) added that the only person present at the meeting who had the authority to make the comment was (b) (7)(C). (b) (7)(C) thought that (b) would have told (b) (7)(C) about the comment as (b) (7) was (b) supervisor and that information would need to be relayed to (b) (7)(C), who was the Contracts and Grants person assigned to CS 1361.

SA (b) (7)(C) referenced notes made by (b) (7)(C) which are dated January 7, 2004. After reviewing the notes (b) (7)(C) explained that (b) took the notes at a 9 am meeting with (b) (7)(C) regarding CM 2012. (b) (7)(C) told (b) (7)(C) that (b) wanted to issue an request for proposals format for the contract so that (b) could move between contractors if there were problems with their performance. This format would also allow the DWSD to not give a problematic contractor more work. (b) (7)(C) also directed that the DWSD give Hayes Excavating and Ferguson Enterprises Inc contracts under CM 2012. (b) (7)(C) did not recall (b) (7)(C) justification for doing this but commented that both contractors had performed work under CS 1347 which was the pilot program before CM 2012 and were familiar with the DLZ format of executing the work. The locations which were assigned to (b)(6), and (b)(6), (b) were streets which were going to be repaved so the DWSD wanted to expedite the replacement of the water mains in those locations. (b) (7)(C) does not know why (b)(6), and (b)(6), (b) were selected for the CS 1347 work other than their minority business enterprise status. (b) (7)(C) doesn't know why (b) (7)(C) wasn't selected for this work. (b)(6), (b) incurred delays in the work on Broadway due to the removal of trolley tracks from the

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street.

(b) (7)(C) recalled that Posen Construction was to be awarded the WS 654 contract which was also for the replacement of watermain in the downtown central business district. Then City Councilman (b)(6), (b) (7) was not happy with Posen over their use of vacant lots for storage of equipment in a previous contract. (b) (7)(C) thought that there were concerns from the DWSD that if Posen was doing work downtown that it would raise questions from the City Council. Someone in the DWSD made the decision to assign the Northeast Plant work to Posen in exchange for the downtown water main assignment. (b) (7)(C) commented that Posen is a good contractor and there was nothing wrong with their bid submittal. (b) (7)(C) did not recall any discussions regarding the possibility of throwing Posen off the contract. (b) (7)(C) does not recall when (b) learned of the controversy between Posen and Bates.

(b) (7)(C) confirmed that WS 654 was awarded to Posen and that if the DWSD had not assigned them work to do under the contract the department would have had to turn in the funds back into the Capital Improvement account, cancel the contract and re-bid it.

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